

SIMTEK6218

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of
Kenji, Nagai

App. No.: 09/682642

Filed: October 1, 2001

Conf. No.: 3686

Title: STARTER MOTOR FOR
INTERNAL COMBUSTION
ENGINES

Examiner: D. Le

Art Unit: 3686

Commissioner for Patents
P.O. Box 1450
Arlington, VA 22313-1450I hereby certify that this correspondence and all
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April 7, 2005

Ernest A. Beutler
Reg. No. 19901

Dear Sir:

APPELLANT'S REPLY BRIEF

This Brief is being submitted to correct several errors or misstatements contained in the Examiner's Answer, dated April 6, 2005 and to ask the Examiner to either again reopen prosecution if he wishes the Board to consider the additional art now cited in his answer or for the Board to remand the case to the Examiner to take corrective action.

Before dealing with this appellant is believed to be due an explanation as to why the Examiner took nearly 8 months to answer his brief and two months after the Status Letter filed February 2, 2005.

Discussing the errors in the Examiner's Answer in the order they appear in that answer, it is not true that Appellants Substitute Brief did not address the issue of related appeals or interferences. This is dealt with under the appropriate heading on the first page of the Brief.

The Examiner also criticizes the Brief as not referring to the specification and drawings in detail. The Rules in force at the time the Brief was filed encouraged simplification as it was assumed that the Board would read the specification and refer to the drawings. The salient features of the invention are pointed out in the Brief.

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The Examiner also states that he withdrew the rejections and Claims 1 and 16 on DeBello, even though that rejection appears on page 3 of the rejection which led appellant to file the new Brief. However in view of this it is assumed that the Examiner has now withdrawn this rejection and it is no longer before the Board.

The Examiner's position that because claims 10-15 depend on claim 1 they stand or fall with it and that the same is true as to claims 17-19 and 23-30 depending on claim 16 they stand or fall together seems to evidence a lack of understanding of the purpose of dependent claims. Appellant's Brief clearly characterizes the claims that stand or fall together and argues the differences between the groupings specified on page 3 of the Brief in the Brief.

Turning now to the art rejections and first that on Nagashima et al, it should be noted that although that invention does relate to a starter motor, it does not address the same problem as that solved by appellant. It is directed to the structure for engaging the starter gears and shows the motor construction only partially. Although there may be windings, a commutator and brushes and their carrier absolutely no detail as to the structure and mounting arrangement therefore is illustrated or described. Therefore it is most respectfully submitted that the Examiner is reading appellants disclosure into it and this can not provide the basis for an anticipation rejection. Also no plain bearing is illustrated or described.

As to claim 10 it calls for the end caps that carry the respective bearings to be connected together by threaded fasteners which is not true in the reference. The threaded fastener shown but not numbered or described is threaded into the element identified by the reference number 1a and that member does not carry the bearing as required by the claim and those that depend on it.

The Examiner is also reading appellant's disclosure into this reference when he alleges that the brush carrier is fixed to the end closure. How?

Claim 12 also calls for the connection of the second end cap to the body that carries the started shaft. This is done by the lugs 47. No such structure is present in the reference as the second end cap is cantilevered.

Appellant has already addressed the deficiency of the combination of Nagashima et al with Isozumi with respect to claims 14, 15, 18, 19 and 30 and which of these claims stand or fall together in his main brief and the Examiner is not believed to establish any error in that argument so no further argument will be presented here. The same is true with respect to the remaining rejections previously argued.

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In view of the foregoing and those arguments made in the earlier brief, a reversal of all grounds of rejection is again solicited.

Respectfully submitted:



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